IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2006

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA
AND
THE HONOURABLE MR. JUSTICE S. RAJESWARAN

WRIT APPEAL NO.1253 OF 2002

T. Janakiraman .. Appellant/Petitioner

Vs.

1. Union of India, rep. by
   Government of Pondicherry,
   Deputy Secretary,
   Land Acquisition,
   Bharathy Street,
   Pondicherry-1.

2. Joint Secretary (Revenue)
   Government of Pondicherry,
   Pondicherry.

3. Union of India, rep. by Chief Secretary,
   Union Territory of Pondicherry,
   Pondicherry. .. Respondents/Respondents

Appeal under clause 15 of the Letters Patent against the order of the learned single Judge in W.P.No.7048 of 1994 dated 25.7.2001 to call for the record of the Second respondent in G.O.Ms.No.44 dated 8.5.91 and quash the same as ultra vires, illegal and invalid.

For Appellant : Mr.K. Vasudevan
For Respondents : Mr.A.A. Sasidharan
Addl. Govt. Pleader
For Govt. Pleader
(Pondicherry)

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J U D G M E N T

(Judgment of the Court was delivered by P.K. MISRA, J)

Heard Mr.K. Vasudevan, learned counsel for the appellant and Mr.A.A. Sasidharan, Additional Government Pleader (Pondicherry) for the respondents.

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2. This writ appeal is filed against the order of the learned single Judge dismissing W.P.No.7048 of 1994. In the said writ petition, the petitioner has sought to challenge the notification under Section 4(1) of the Land Acquisition Act as well as declaration under Section 6 of the Land Acquisition Act. Two main contentions have been raised before the learned single Judge; one relating to lapse of land acquisition proceedings on account of the fact that award had not been made within a period of two years from the date of publication of the declaration under Section 6 of the Land Acquisition Act. The other aspect was relating to malafides in the land acquisition proceedings.

3. In so far as the first question was concerned, learned single Judge came to the conclusion that land acquisition proceedings cannot be said to have been lapsed on account of the fact that a suit had been filed challenging the land acquisition proceedings numbered as O.S.No.154 of 1991 wherein interim order of stay had been passed and subsequently the said suit was dismissed. Learned single Judge has therefore rightly excluded that period while computing the period of limitation as it is available under Section 11A of the Land Acquisition Act and therefore came to the conclusion that the award had been passed within two years from the date of publication of declaration under Section 6 of the Land Acquisition Act. Even though, learned counsel for the appellant challenged such finding, we do not find any reason to differ from such conclusion. Learned counsel for the appellant contended that such civil suit was not maintainable in law and, therefore, any stay passed in such civil suit should not be considered for the purpose of computing limitation. We are not able to accept the said submission, as in our opinion, the question whether the suit was maintainable in law or not is not a factor, because stay has been granted by this Court and obviously because of such stay, the authorities did not proceed with the land acquisition proceedings during the period, when stay was in operation.

4. The other contention of the appellant is to the effect that earlier in 1983, efforts had been made to acquire the lands and such proceedings was dropped and, therefore, fresh land acquisition proceedings should not have been initiated. Merely because the proceedings was dropped, it cannot be said that there was any embargo in initiating fresh proceedings in accordance with law. This contention was also rightly negatived by the learned single Judge.

5. Learned counsel for the appellant also submitted that Section 5A enquiry had not been properly conducted. From the materials available on record, it appears that the appellant himself had participated in the 5A enquiry. Therefore, we do not find any reason to come to the conclusion that Section 5A enquiry had not been properly conducted, in so far as the present appellant is concerned.

6. Even though learned counsel for the appellant wanted to project the case on behalf of other land owners, since a writ petition has been filed in the individual capacity and similarly appeal has also been filed in such individual capacity, it is not necessary for us to consider whether such notice had been issued to other land owners or not. As

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rightly observed by the learned single Judge, the writ petition itself has been filed after much delay, that is to say after completion of the award enquiry. In such view of the matter, we do not find any merit in the writ appeal and it is liable to be dismissed. The learned counsel for the appellant submitted that in fact acquisition is likely to affect about 103 persons and such proceedings should be stalled. We are not impressed by this aspect. However, it is observed that in case proper representations are made, the respondents may consider such representations in accordance with law.

7. The writ appeal is according dismissed, subject to the aforesaid observation. No costs.

dpk/vjy

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. Union of India, rep. by
   Government of Pondicherry,
   Deputy Secretary,
   Land Acquisition,
   Bharathy Street,
   Pondicherry-1.

2. Joint Secretary (Revenue)
   Government of Pondicherry,
   Pondicherry.

3. Union of India, rep. by Chief Secretary,
   Union Territory of Pondicherry,
   Pondicherry.

+1 cc to Mr.K.Vasudevan, Advocate Sr.No.62677.

+1 cc to Senior Government pleader - Cum-
Senior Public Prosecutor for Pondicherry Sr.No62866.

PPV(CO)

dcp/7.6.07 W.A.NO.1253 OF 2002

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